

HOURS OF DUTY AND LEAVE

- 1. REASON FOR ISSUE:** To issue Department of Veterans Affairs (VA) procedures regarding hours of duty and leave.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This directive sets forth mandatory procedures previously contained in numerous other issuances. This change incorporates the inclusion of the chiropractic occupation for coverage in Part I, Part II, and Part III per the requirements of Public Law 107-135, dated January 23, 2002.
- 3. RESPONSIBLE OFFICE:** The Work Life and Benefits Service (058), Office of the Deputy Assistant Secretary for Human Resources.
- 4. RELATED DIRECTIVE:** VA Handbook 5011, Hours of Duty and Leave.
- 5. RESCISSIONS:** Refer to the Transmittal Sheet for VA Handbook 5001, General Introduction and Administration.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/Robert N. McFarland
Assistant Secretary for
Information and Technology
Administration

/s/William H. Campbell
Assistant Secretary for Management
Office of Human Resources and

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HOURS OF DUTY AND LEAVE

1. PURPOSE. This directive contains existing policy on the establishment of duty schedules and on leave administration for Department of Veterans Affairs (VA) personnel. It is applicable to General Schedule employees (including title 38 hybrid employees appointed to positions listed in 38 U.S.C. 7401(3)); Federal Wage System employees; non-U.S. citizen employees employed outside the United States; physicians, dentists, podiatrists, [chiropractors,] optometrists, nurses, nurse anesthetists, physicians assistants, and expanded-function dental auxiliaries appointed under 38 U.S.C., chapter 73 and 74; and non-physician/non-dentist program directors and other key executives appointed under 38 U.S.C. 7306(a)(7) or (9). This directive should be used in conjunction with VA Handbook 5011, which contains mandatory guidance and procedures on hours of duty and leave administration in VA.

2. POLICY

a. The VA leave program for employees shall be administered fairly and uniformly within the meaning of the provisions of this directive and VA Handbook 5011.

b. In scheduling hours and tours of duty for VA employees, primary consideration will be given to efficiency in management and conduct of an agency functions, and equitable treatment of individual employees.

c. When tours of duty must necessarily vary from the normal tour, employees will be given the opportunity of discussing their assignment and of having their views or personal problems arising in connection with such assignment considered. Tours of duty will not be changed arbitrarily and insofar as possible, employees will be given notice of any change in their work schedule at least one administrative workweek in advance. Sympathetic consideration will be extended to employees who have religious scruples against working on their Sabbath. If practicable, mutually satisfactory exchange of duty assignments may be worked out for such employees or substitute work-time may be provided to offset the time required for religious observance. Insofar as possible, work schedules should be arranged to permit employee's observance of their Sabbath on whatever day it occurs.

d. All employees are expected to be on duty during the full period of their tours of duty unless absent on approved leave; to observe the opening and closing hours established for the tour of duty; and to adhere to established luncheon periods.

e. In the establishment of work schedules, employees will have their assignments scheduled in advance over periods of not less than one administrative workweek and such schedules will be established in a manner that realistically reflects the actual work requirement.

f. The occurrence of holidays shall not affect the designation of the basic workweek.

g. Duty schedules for title 38 healthcare employees shall be established as appropriate and necessary for performance of services in the care and treatment of patients and other essential activities within the administration of the Under Secretary for Health or designated officials.

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3. DEFINITIONS

a. **Accrued Leave.** The leave earned by an employee during the current leave year that is unused at any given time in that leave year.

b. **Accumulated Leave.** The unused leave remaining to the credit of an employee at the beginning of a leave year.

c. **Administrative Workweek.** The calendar week, Sunday through Saturday.

d. **Basic Workweek**

(1) For full-time employees other than physicians, dentists, podiatrists, [chiropractors,] optometrists, nurses, nurse anesthetists, PAs and EFDAs appointed under 38 U.S.C. chs. 73 or 74), basic workweek is the 40-hour workweek established in accordance with 5 CFR 610.111, and part II, chapter 2 of this handbook.

(2) Full-time physicians, dentists, [chiropractors,] and optometrists to whom the provisions of part II, chapter 3 of this handbook apply shall be continuously subject to call unless officially excused by proper authority. This requirement as to availability exists 24 hours per day, 7 days per week.

(3) For full-time nurses, nurse anesthetists, PAs and EFDAs, basic workweek means a 40-hour workweek established in accordance with the provisions of part II, chapter 3 of this handbook. A 24-hour basic workweek established in accordance with the provisions of part II, chapter 3 of this handbook is applicable only to full-time nurses and nurse anesthetists on the Baylor Plan.

e. **Baylor Plan.** Two regularly scheduled 12-hour tours of duty contained entirely within the period commencing at midnight Friday and ending at midnight the following Sunday approved in accordance with VA Handbook 5007, part VIII, chapter 9.

f. **General Leave Terms.** In administering 5 U.S.C. ch. 63, VA will observe the definitions in 5 CFR 630.201.

g. **Irregular or Occasional Overtime Work.** Overtime work that is not regularly scheduled.

h. **Leave Year.** A leave year begins on the first day of the first full biweekly pay period in a calendar year and ends the day before the first full biweekly pay period in the following calendar year.

i. **Overtime Work and Overtime.** Definitions are the same as the definitions in 5 CFR 550.103(i) and 550.111 for General Schedule (GS) employees and non-U.S. citizen employees overseas. Overtime for title 38 employees is discussed in VA Handbook 5007, part V, chapter 2.

j. **Part-Time Employee.** An employee who performs a regular tour of duty on less than a full-time basis. A regular tour of duty is defined as a specific number of hours scheduled over the course of a pay period. Such an employee may perform duty on an unscheduled basis in addition to the regularly

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scheduled tour of duty.

k. **Regular Overtime Work.** Overtime work that is regularly scheduled. For this purpose, any overtime work scheduled for an employee in advance of the administrative workweek in which it occurs constitutes regular overtime.

l. **Regularly Scheduled Administrative Workweek.** For full-time employees (other than physicians, dentists, podiatrists, [chiropractors,] optometrists, nurses, nurse anesthetists, PAs and EFDAs appointed under 38 U.S.C. chs. 73 or 74), means the period within an administrative workweek, established in accordance with 5 CFR 610.111 and part II, chapter 3 of this handbook, within which these employees are required to be on duty regularly. For part-time employees (other than those appointed under 38 U.S.C. chs. 73 or 74), it means the officially prescribed days and hours within an administrative workweek during which these employees are required to be on duty regularly.

NOTE: *Section 6102, title 5, United States Code, requires that the regular hours of work for wage employees be established at not more than 8 per day or 40 per week, but work in excess of such hours shall be permitted when administratively determined to be in the public interest. Work in excess of 8 hours per day, or 40 hours per week, constitutes overtime work for General Schedule and wage employees (5 U.S.C. 5542 and 5543).*

interrupting the work assignment and responsibility. Such exceptional tours of duty shall be carefully examined as to justification by the approving official, and fully documented.

5. HOLIDAYS

a. **General.** It is VA policy to excuse from duty on legal holidays (and non-workdays designated by Federal Statute or Executive Order) all employees except those required to maintain the usual essential services. Employees who are notified to appear for duty on legal holidays and fail to report for work will be, in the absence of satisfactory explanation or justification, determined to be AWOL (absence without leave) and will lose pay for the day. However, notwithstanding the preceding provisions of this subparagraph, full-time nurses and nurse anesthetists on the Baylor Plan shall not be entitled to holidays.

b. Identification and Determination of Legal Holidays

(1) For identification and determination of legal holidays, see 5 U.S.C. 6103 and 6104, and Executive Orders 10358 (as amended by E.O. 11226 and 11272) and 10552.

(2) For purposes of section 4(b) of Executive Order 10358, the employee's first full day off in the calendar week will be considered the day off in lieu of Sunday.

(3) For purposes of 5 U.S.C. 6103(b)(2), the employee's second day off in the calendar week will be considered the day off in lieu of Saturday.

(4) All other holidays shall be observed on the day they occur. Part-time employees who are excused from duty on a holiday are entitled to their regular pay for that day.

(5) An in-lieu non-workday may be granted to full-time non-physician facility directors, physicians, dentists, podiatrists, [chiropractors,] and optometrists, for work performed on a holiday or the day observed as a holiday, provided the full-time employee's services can be spared without detriment to patient care. Such in-lieu day, if authorized, must be taken within 90 days by the full-time employee concerned. Full-time employees who are assigned to work on holidays and whose absences were not authorized will be reported as being on unauthorized absence and will lose pay for that day.

NOTE: *An in-lieu non-workday shall not be authorized for a nurse, nurse anesthetist, PA or EFDA who works on a holiday or the day designated as a holiday.*

c. **Religious Holidays.** While there is no official observance of religious holidays, except those which may also be legal holidays, it is the policy of VA to permit, insofar as practicable, absence from work for those employees who desire to observe religious holidays. Absence of employees on religious holidays will be charged to annual leave, if they have annual leave to their credit, otherwise to LWOP. Employees may, under provisions of 5 U.S.C. 5550a, and applicable regulations, elect to work compensatory overtime for the purpose of taking time off without charge to leave when their personal religious beliefs require that they abstain from work during certain periods of the workday or workweek, thereby avoiding an annual leave or leave without pay charge.

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d. **State and Local Holidays.** Except as provided below for non-U.S. citizen employees overseas, State and local holidays will not be observed by the mere fact of their occurrence and such days will be treated as regular workdays if they fall within an employee's basic workweek. Absence on such days will be charged to leave. Directors may close facilities on State or local holidays only if it is determined that Federal work may not be properly performed. In determining when Federal work may not be properly performed, employees of the office must be actually prevented from working by one of the following circumstances:

(1) The building or office in which the employees work is physically closed; or building services essential to proper performance of work are not operating.

(2) Local transportation services are discontinued or interrupted to the point where employees are prevented from reporting to their work location.

(3) The duties of the employees consist largely or entirely of dealing directly with employees and officials of business or industrial establishments or local government offices, and all such establishments are closed in observance of the holiday, and there are no other duties (consistent with their normal duties) to which the employees can be assigned on the holiday. When such determination is made, the records of the facility shall be fully documented to reflect the basis and justification for the action. When the office is thus closed, such days are not chargeable to annual leave. The directors of the Manila Regional Office and the VA Office for Europe are authorized to excuse non-U.S. citizen employees from duty on legal holidays of the country therein without charge to leave. Employees (including non-U.S. citizen employees) required to work on a State or local holiday, however, are not entitled to premium compensation or to compensatory time off.

e. **Holiday Benefits in Connection with Absence in Non-pay Status**

(1) Employees (except full-time nurses and nurse anesthetists on the Baylor Plan) are entitled to payment for the holiday if they are absent in a non-pay status (including LWOP or AWOL) on the day immediately following the holiday, provided they were in a pay status (duty or leave) the day preceding the holiday, and provided the holiday was not included within the period of non-pay status. If the holiday was included within the period of non-pay status, payment for the holiday will not be made. Wherever possible, periods of LWOP should not be scheduled so as to begin or end on a holiday.

(2) Employees (except full-time nurses and nurse anesthetists on the Baylor Plan) in a non-pay status (including LWOP or AWOL) the day preceding the holiday will receive payment for the holiday, provided they are in a pay status (duty or leave) the next regularly scheduled workday immediately following the holiday, and provided the holiday was not included within the period of non-pay status.

(3) The provisions of subparagraphs e(1) and (2) [] also apply to in-lieu days granted to full-time non-physician facility directors, physicians, dentists, podiatrists, [chiropractors,] and optometrists.

(1) Except as indicated [], the employees shall be granted a reasonable amount of time within their tours of duty to change into or out of uniform. In situations involving successive shifts requiring continuity of service and exchange of information and instructions between employees, overlapping hours of duty shall be provided to the extent feasible so as to facilitate apportionment of time for purposes of changing into or out of uniforms within the prescribed tour of duty. In all such cases, tours of duty shall be so established as to assure that all full-time employees will be scheduled for a 40-hour basic workweek each calendar week.

(2) If administrative necessity requires the changing into and out of uniform outside the employees' tours of duty, adequate additional time shall be officially scheduled for the employees before and after their regular tours of duty for such purpose. These scheduled periods of time shall be compensated under regulations pertinent to overtime pay, when appropriate.

d. As a convenience for employees permitted to wear their uniforms to and from work, facilities should be made available for those who prefer to change at the facility.

11. ALTERNATIVE WORK SCHEDULES (FLEXIBLE AND COMPRESSED WORK SCHEDULES)

a. **General.** This chapter implements Department of Veterans Affairs (VA) policies and procedures concerning flexible and compressed work schedules. It applies to employees under the General Schedule, members of the Senior Executive Service (SES), non-U.S. citizen employees outside the United States, and unless excepted under subparagraph b(2), employees compensated under the Federal Wage System and employees appointed under "hybrid" 38 United States Code (U.S.C.) 7401(3) and 7405 (a)(1)(B) appointments, such as physical therapists and registered respiratory therapists, nurses, nurse anesthetists, physician assistants and expanded-function dental auxiliaries. This paragraph does not apply to:

(1) Veterans Health Administration employees appointed under chapter 73 or chapter 74, title 38, U.S.C., except as noted in the preceding subparagraph.

NOTE: *VA policies on flexible and compressed schedules for nurses, nurse anesthetists, physician assistants and expanded function dental auxiliaries are contained in chapter 3 of this part. VA policies on compressed schedules for physicians, dentists, podiatrists [chiropractors,] and optometrists, as well as the Chief Consultant, Nursing Strategic Healthcare Group who is appointed under 38 U.S.C. 7306, are also contained in chapter 3, this part.*

(2) Veterans' Canteen Service employees appointed under 38 U.S.C. ch. 78.

(3) Purchase and hire employees appointed under Schedule A, 5 CFR part 213.

(4) Employees compensated under the Executive Schedule (5 U.S.C. ch. 53).

CHAPTER 3. ESTABLISHMENT OF WORKWEEKS, TOURS OF DUTY, AND WORK SCHEDULES FOR EMPLOYEES APPOINTED TO TITLE 38 POSITIONS

1. SCOPE

a. This chapter contains basic policies and instructions governing duty for full- and part-time physicians, dentists, podiatrists, [chiropractors,] optometrists, nurses, nurse anesthetists, physician assistants (PAs), and expanded-function dental auxiliaries (EFDAs) appointed under authority of 38 U.S.C., chapter 73 and 74.

b. Except as otherwise indicated in part III, chapter 3, paragraph 13 of this handbook, hours of duty provisions for full-time physicians and dentists contained in this chapter are applicable to full-time residents appointed under authority of 38 U.S.C. 7406. [The term "resident" as used in this paragraph refers to medical and dental residents.](#) As used in this chapter, any reference to "nurse(s)" includes nurse anesthetist but does not include the Chief Consultant, Nursing Strategic Healthcare Group; and "employee(s)" includes those personnel indicated in subparagraph a (both full-time and part-time, unless otherwise specified). The hours of duty provisions contained in this chapter for full-time physicians and dentists appointed under 38 U.S.C. 7306 shall apply to the Chief Consultant, Nursing Strategic Healthcare Group (118).

c. Persons other than those indicated in subparagraph a employed under authority of 38 U.S.C. chapter 73 and 74, including title 38 hybrid employees appointed to positions listed in 38 U.S.C. 7401(3) including certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists and occupational therapists, are subject to the provisions of 5 U.S.C., chapter 61. Graduate nurse technicians are included in this category. (See part III, chapter 2, this handbook.)

d. Persons employed on an intermittent basis, per annum fee basis, or lump-sum fee basis, under authority of 38 U.S.C. 7405 are paid for actual service rendered and therefore their duty schedules shall be determined by procedural requirements issued by the Under Secretary for Health.

2. BASIC WORKWEEK AND OFFICIAL DUTY

a. Unless otherwise indicated, the "basic workweek" for full-time employees shall be 40 hours in length. The normal tour of duty within the 40-hour basic workweek shall consist of five 8-hour days, exclusive of the meal period. [Directors of field facilities, or their designees, are authorized to fix the hours of duty constituting the normal tours of duty within the 40-hour basic workweek.](#) Full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists to whom the provisions of this chapter apply shall be continuously subject to call unless officially excused by proper authority. This requirement as to availability exists 24 hours per day, 7 days per week.

b. Full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists shall be permitted some periods of time free from official duty to the extent that this does not impair provision of essential services in patient treatment and care. Each such full day granted shall be called an "administrative non-duty day." Full-time VA Central Office and VA outpatient clinic employees will normally perform duty Monday through Friday of each workweek. The remaining 2 days (Sunday, the first day of the workweek and Saturday, the last day of the workweek) shall be designated as the administrative non-duty days of the workweek for physicians, dentists, podiatrists, [chiropractors,] and optometrists or the days off for nurses, nurse anesthetists, PAs and EFDAs. Unusual circumstances may make it necessary, however, for the Under Secretary for Health, chief consultants, or facility directors, as appropriate, to alter these provisions for specific individuals or groups of individuals in the best interests of the service.

c. Full-time nurses, nurse anesthetists, PAs, and EFDAs shall be scheduled in advance for a 40-hour basic workweek in each administrative workweek, except that full-time nurses and nurse anesthetists on the Baylor Plan shall be scheduled in advance for a 24-hour basic workweek in each administrative workweek. The basic workweek for Baylor Plan nurses shall consist of two regularly scheduled 12-hour tours of duty contained entirely within the first and last day of the administrative workweek, Sunday and Saturday. The normal tour of duty within the 40-hour basic workweek shall consist of five 8-hour days, exclusive of the meal period. A full-time nurse or nurse anesthetist shall be placed on the Baylor Plan only at the beginning of the administrative workweek and taken off the Baylor Plan at the end of the administrative workweek.

d. Because of the continuous nature of the services rendered at hospitals, the facility Director, or designee (in no case less than a chief of service), has the authority to prescribe any tour of duty to ensure adequate professional care and treatment to the patient, consistent with these provisions.

e. In the exercise of the authority to prescribe tours of duty, it will be the policy to: prescribe individual hours of duty as far in advance as is possible; schedule the administrative non-duty days or the days off of each workweek on consecutive days, where possible; arrange for continuous medical supervision required by policy in M-2, part I, chapter 4, "Medical Officer of the Day;" and give each full-time employee every possible consideration in arranging schedules so long as such consideration is compatible with the professional obligation to the patients.

f. Part-time employees perform duty on less than a full-time basis under a prescheduled regular tour of duty. Such employees may perform occasional unscheduled duty in addition to the regular tour of duty. Employees serve on an intermittent duty basis when employed on less than a full-time basis with no prescheduled regular tour of duty. Timekeeping practices will reflect the actual hours worked by part-time and intermittent employees. Facility directors will assure accurate daily reporting on time and attendance reports of time worked and for which the employee is entitled to salary.

g. It is recognized that additional flexibilities pertaining to prescheduled tours of duty for part-time physicians are needed to accommodate the unique needs and varying circumstances of health care facilities. For example, part-time surgeons at active affiliated facilities with extensive patient care, research, and educational responsibilities may frequently encounter emergencies and other unanticipated obligations that require them to depart from their scheduled tour of duty. Under such

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circumstances, it is difficult for management to administratively change or adjust the prescheduled tour and communicate this to the timekeeper in a timely manner. Adjustable work hours provide a means for minimizing this

problem. After assessing their particular needs, facility directors may authorize the use of adjustable work hours for part-time physicians as determined appropriate and necessary. See paragraph 4 [] for procedures for implementing adjustable work hours.

3. HOLIDAYS. Employees shall be excused to the extent possible for observance of the following holidays and non-workdays designated by Federal Statute or Executive Order: January 1, , the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the fourth Thursday in November, December 25, and any other calendar day designated as a holiday or non-workday by Federal Statute or Executive Order. However, notwithstanding the preceding provisions of this subparagraph, full-time nurses and nurse anesthetists on the Baylor Plan shall not be entitled to holidays.

a. Full-Time Employees (Except Nurses and Nurse Anesthetists on the Baylor Plan)

(1) For employees whose basic workweek is Monday through Friday, holidays falling on a Sunday shall be observed the following Monday; holidays falling on Saturday shall be observed on the preceding Friday; and all other holidays shall be observed on the day they occur.

(2) For employees whose basic workweek is other than Monday through Friday, the employee's first day off in the calendar week is designated as the day off in lieu of Sunday and the employee's second day off in the calendar week is designated as the day off in lieu of Saturday.

(a) When a holiday falls on the day designated as a day off in lieu of Sunday, the employee's next workday shall be the day observed as the holiday for that employee.

(b) When a holiday falls on the day designated as a day off in lieu of Saturday, the employee's preceding workday shall be the day observed as the holiday for that employee.

b. Part-Time Employees. Part-time employees who are excused from duty on a holiday are entitled to their regular pay for that day.

c. In-Lieu Non-workday. An in-lieu non-workday may be granted to full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists, for work performed on a holiday or the day observed as a holiday, provided the full-time employee's services can be spared without detriment to patient care. Such in-lieu day if authorized must be taken within 90 days by the full-time employee concerned. Full-time employees who are assigned to work on holidays and whose absences were not authorized will be reported as being on unauthorized absence and will lose pay for that day.

NOTE: *An in-lieu non-workday shall not be authorized for a nurse, nurse anesthetist, PA or EFDA who works on a holiday or the day designated as a holiday.*

d. Holiday Benefits in Connection With Absence in a Non-pay Status

(1) Employees (except full-time nurses and nurse anesthetists on the Baylor Plan) are entitled to payment for the holiday if they are absent in a non-pay status (including LWOP or AWOL) on the day immediately following the holiday, provided they were in a pay status (duty or leave) the day preceding the holiday, and provided the holiday was not included within the period of non-pay status. If the holiday was included within the period of non-pay status, payment for the holiday will not be made. Wherever possible, periods of LWOP should not be scheduled so as to begin or end on a holiday.

(2) Employees (except full-time nurses and nurse anesthetists on the Baylor Plan) in a non-pay status (including LWOP or AWOL) the day preceding the holiday will receive payment for the holiday, provided they are in a pay status (duty or leave) the next regularly scheduled workday immediately following the holiday, and provided the holiday was not included within the period of non-pay status.

(3) The provisions of subparagraphs d(1) and (2) [] also apply to in-lieu days granted to full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists.

e. Religious, State and Local Holidays

(1) While there is no official observance of religious holidays, except those which may also be national holidays, it is the policy of VA to permit, when practicable, absence from work for those employees who desire to observe religious holidays. Employees may, under provisions of Public Law 95-390, and applicable regulations, elect to work compensatory overtime for the purpose of taking time off without charge to leave when their personal religious beliefs require that they abstain from work during certain periods of the workday or workweek, thereby avoiding an annual leave or leave without pay charge.

(2) If a facility is closed on a State or local holiday because it is determined that Federal work may not be properly performed as provided in chapter 2, this part, absence on such day is not chargeable to leave for an employee of the facility. Such approved time off is considered authorized absence without charge to leave.

4. ADJUSTABLE WORK HOURS FOR PART-TIME PHYSICIANS

a. Part-time Adjustable Hours of Duty

(1) A part-time regular tour of duty, including core and non-core time [] will be prescheduled at the beginning of the biweekly pay period with days and times specified. This schedule may be changed or adjusted during the pay period to accommodate unforeseen needs, if such change is approved by the facility Director, or designee.

(2) Part-time physicians may, however, be authorized to work adjustable hours of duty, as indicated in subparagraph 4 [], provided *the total work requirement* in each biweekly pay period is met. The total work requirement is the total number of hours which an employee is required to work or otherwise

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5. FLEXIBLE AND COMPRESSED WORK SCHEDULES FOR EMPLOYEES IN TITLE 38 POSITIONS

a. **General.** This paragraph contains Veterans Health Administration policies and procedures concerning flexible and compressed work schedules for VHA title 38 health care employees. All of the provisions of this paragraph apply to full and part-time nurses, graduate nurse technicians, nurse technicians pending graduation, nurse anesthetists, PA's (physician assistants) and EFDAs (expanded function dental auxiliaries) appointed under authority of 38 U.S.C. 7401(l) or 7405(a)(1.). Only the provisions on compressed work schedules apply to physicians, dentists, podiatrists, [chiropractors,] or optometrists appointed under 38 U.S.C., sections 7306, 7401(1), 7405 or 7406, as well as the Chief Consultant, Nursing Strategic Healthcare Group who is appointed under 38 U.S.C. 7306. The provisions in this paragraph do not apply to student nurse technicians or nurses and nurse anesthetists on the Baylor Plan.

NOTE: *Instructions for compressed work schedules for employees in VA Central Office have been published in VA Directive 5610.3.*

b. References

- (1) Federal Employees Flexible and Compressed Work Schedules Act of 1982 (Pub. L. 97-221, 5 U.S.C. 6120-6133.)
- (2) 5 CFR 2472
- (3) 38 U.S.C. 7421(a) and 7423(a)

c. Definitions

(1) **Administrative Workweek.** A period of 7 consecutive calendar days, which coincide with the calendar week, Sunday through Saturday.

(2) **Alternative Work Schedule.** A work schedule that is other than the traditional work schedule (8 hours per day/40 hours per week with fixed starting and quitting times), which consists of either a flexible work schedule or compressed work schedule.

(3) **Basic Work Requirement.** The number of hours during a biweekly pay period, excluding overtime hours, which an employee is required to work or required to account for by leave or otherwise.

(4) **Biweekly Pay Period.** The pay period covering two administrative workweeks.

(5) Compressed Schedule

- (a) In the case of a full-time employee, an 80-hour biweekly work requirement which is scheduled

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for fewer than 10 workdays.

(6) **Holidays.** A full-time employee on a flexible schedule, relieved from working on a day designated as his or her holiday, shall be entitled to pay with respect to that day for 8 hours. A part-time employee prevented from working on the holiday shall be entitled to basic pay for the number of hours he or she was scheduled to work that day, up to a maximum of 8 hours. Part-time employees are not entitled to a day off in lieu of the holiday.

(7) **Excused and Unexcused Absences.** On the flexitour, the employee's selected starting and stopping times shall be used to determine the amount of excused or unexcused absence to be granted and/or charged. On the modified flexitour, the employee's selected starting and stopping times shall be used unless the employee has actually reported for work. In the latter instance, the actual time the employee reports, and his or her basic work requirement for that day, shall be used in making the determination.

(8) **Travel.** Time spent traveling away from the official duty station by an employee during the hours and days of his or her regularly scheduled tour of duty is considered hours of employment for the purposes of this appendix. Time spent in travel status by an employee outside of the regularly scheduled hours is compensable under the following conditions:

(a) Travel outside regularly scheduled duty hours must be officially ordered or approved and must meet one of the four conditions specified in section 7453(e)(5) of title 38, United States Code; and

(b) On the flexitour, the employee's selected starting and stopping times shall be used to determine if the employee is traveling during his or her regularly scheduled hours. On the modified flexitour, the employee's selected starting and stopping times shall be used unless the employee has already reported for work. In this instance, the actual time the employee reports, and his or her basic work requirements for that day, shall be used in making the determination.

g. Compressed Workweeks

(1) General Requirements

(a) Compressed work schedules shall be consistent with patient care requirements. For example, compressed work schedules may be adopted to expand clinic service hours, staff mobile clinics, or otherwise improve service to veterans.

(b) The method of charging employees leave remains unchanged.

(c) Full-time physicians, dentists, podiatrists [chiropractors,] and optometrists participating in compressed workweeks remain continuously subject to call unless officially excused by proper authority. They will fulfill their minimum tour of duty and meet all other obligations that require their attendance beyond the minimum tour of duty (e.g., Medical or Admitting Office of the Day).

PART III. LEAVE

CHAPTER 2. TITLE 5 LEAVE AND ABSENCE (To Be Used With 5 U.S.C. Chapter 63 and 5 CFR, Part 630)

1. SCOPE. This chapter provides the policies and guidelines to be used in administering the provisions of 5 U.S.C., chapter 63 and 5 CFR, part 630 for employees covered by this leave system. Hybrid title 38 employees appointed under 38 U.S.C. 7401(3) or 7405(a)(1)(B) are covered by the provisions of this chapter. There is a separate leave system for physicians and dentists, including medical and dental residents, podiatrists, [chiropractors,] optometrists, nurses, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries employed under the authority of 38 U.S.C., chapters 73 and 74 (see part III, chapter 3).

2. LEAVE ACCRUALS AND LEAVE CHARGES

a. **General.** For information concerning rates of accrual, leave charges, maximum accumulations, and disposition of leave accounts, see 5 U.S.C. 6303, 6304, 6307 and 5 CFR 630. A leave year begins on the first day of the first full biweekly pay period in a calendar year and ends the day before the first full biweekly pay period in the following calendar year. **NOTE:** *Part-time employees earn leave only when there has been established in advance a regular tour of duty on one or more days during each administrative workweek.*

b. **Crediting Leave.** Annual and sick leave which will be earned during the pay period shall be credited to an employee's leave account at the beginning of the pay period and may be used during such period.

c. **Leave Charges.** The minimum charge for any type of leave shall be a quarter hour (15 minutes). When employees are absent for less than 15 minutes and request leave, they cannot be required to work the remaining portion of the 15 minutes for which the leave is charged. Separate periods of absence in the same tour of duty, however may be totaled together and charged in 15 minute increments. Refer to paragraph 12f of this chapter for guidance concerning tardiness.

d. **Accruals and Charges for Employees in Stand-by Tours of Duty.** Employees occupying positions involving regular tours of duty in excess of 40 hours a week and for whom premium compensation is paid on an annual basis shall accrue and be charged leave in accordance with the provisions of 5 CFR 630.210 on uncommon tours of duty. Employees performing standby duty in addition to their regular tour of duty do not have a special leave accrual rate. However, these employees are charged leave on holidays in accordance with 56 Comp Gen. 551.

e. **Absence and Leave For Firefighters with Uncommon Tours of Duty**

(1) **Uncommon Tours Of Duty.** Firefighters covered by chapter 2, this part, will be placed on uncommon tours of duty for purposes of earning and charging leave.

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c. In implementing the statutory requirements for administering family and medical leave entitlements, VA will follow regulations published in 5 CFR 630.1201-1211 by the Office of Personnel Management.

18. BONE MARROW AND ORGAN DONOR LEAVE

a. In connection with serving as a bone marrow or organ donor, an employee, in any calendar year, is entitled to authorized absence (to be coded in the ETA as donor leave – DL) without loss of or reduction in pay (5 U.S.C. 6327) as follows:

- (1) Not to exceed 7 days of paid leave to serve as a bone marrow donor; and
 - (2) Not to exceed 30 days of paid leave to serve as an organ donor
- b. Other types of approved leave may also be used in addition to organ donor leave.

19. VOLUNTARY LEAVE TRANSFER PROGRAM

a. **General.** Under this program, the unused accrued annual leave of a VA employee, or an employee of another Federal agency, may be transferred for use by a VA or other Federal employee who needs the leave because of a medical emergency.

b. Definitions

- (1) **Agency.** An *Executive agency*, as defined in 5 U.S.C. 105.
- (2) **Employee.** Has the meaning given that term in 5 U.S.C. 6301(2); and physicians, dentists, nurses, podiatrists, [chiropractors,] optometrists, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries in the VHA as covered by chapter 3, this part.
- (3) **Family Member.** Means the following relatives of the employee:
 - (a) Spouse, and parents thereof;
 - (b) Children, including adopted children, and spouses thereof;
 - (c) Parents;
 - (d) Brothers and sisters, and spouses thereof; and
 - (e) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

CHAPTER 3. TITLE 38 LEAVE PROGRAM

1. COVERAGE

a. This chapter establishes the policies and procedures for leave administration for full-time and part-time physicians, dentists, podiatrists, [chiropractors,] optometrists, nurses, nurse anesthetists, physician assistants (PAs), and expanded-function dental auxiliaries (EFDAs), appointed under authority of 38 U.S.C., chapters 73 and 74.

b. This chapter also establishes the policies and procedures for leave administration for medical and dental residents appointed under authority of 38 U.S.C. 7406. (This chapter does not cover medical and dental residents paid through disbursement agreements.) The Under Secretary for Health, or designees, will establish the annual leave system for residents, not to exceed that amount provided full-time employees.

c. As used in this chapter, and unless otherwise indicated, any reference to “nurse(s)” includes nurse anesthetist(s) but does not include the Chief Consultant, Nursing Strategic Healthcare Group; and “employee(s)” includes those personnel indicated in subparagraph a (both full-time and part-time, unless otherwise specified). The leave provisions contained in this chapter for full-time physicians and dentists shall apply to the Chief Consultant, Nursing Strategic Healthcare Group;

d. Persons other than those indicated in subparagraphs a through c employed under authority of 38 U.S.C., chapter 73 and 74, are subject to the provisions of 5 U.S.C., chapter 63. Graduate nurse technicians and allied health trainees who are appointed under authority of 38 U.S.C. 7405(a)(1)(D) are included in this category.

e. Persons employed on an intermittent basis, per annum fee basis, or lump-sum fee basis, under authority of 38 U.S.C. 7405 are paid for actual service rendered and are not entitled to leave benefits.

2. POLICY

a. [The proper care and treatment of patients shall be the primary consideration in granting of leave.](#)

b. The VA leave program for employees shall be administered fairly and uniformly within the meaning of the provisions of this chapter.

3. GENERAL

a. **Advanced Leave.** Neither annual nor sick leave shall be advanced to an employee when it is known that the employee will retire or be separated before the amount advanced can be earned, or when it is reasonable to expect that the employee will not return to duty.

b. Leave Charges

(1) The minimum charge for leave shall be 1 day and multiples thereof for full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists and a quarter hour (15 minutes) or multiples thereof for nurses, nurse anesthetists, PAs, EFDAs and part-time physicians, dentists, podiatrists [, chiropractors,] and optometrists.

(2) Holidays and in-lieu days granted thereof will not be charged to leave.

(3) For full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists, the conditions of duty, leave, and administrative nonduty days which prevail during any one week (Sunday through Saturday) shall determine the nature of the charge to annual and sick leave.

4. ANNUAL LEAVE

a. **Annual Leave.** The granting of annual leave shall be a matter of administrative discretion as to when and in what amount it may be authorized. Requests for annual leave shall be acted upon in the light of essential medical services and with due regard to the welfare and preferences of individual employees. Employees should be encouraged to take annual leave for at least 2 consecutive weeks each year for purposes of rest and relaxation.

b. Charging Annual Leave

(1) **Days on Which Work is Performed.** For the purpose of charging annual leave to all eligible employees, the following will be considered as days on which work is performed:

- (a) Sick leave.
- (b) Military leave.
- (c) Court leave.
- (d) All authorized absences as set forth in paragraph 9.

(2) **Full-Time Nurses, Nurse Anesthetists, PAs, EFDAs and Part-Time Employees.** The minimum charge of annual leave for these employees is one quarter hour (15 minutes) and multiples thereof (see subparagraph (3) [] for the formula for computing leave for full time nurses and nurse anesthetists on the Baylor Plan). [When leave is charged because of absence from duty or tardiness, the employee will not be required to work during the period covered by the leave.](#)

(3) **Full-Time Nurses and Nurse Anesthetists on the Baylor Plan.** Such nurses and nurse anesthetists shall be charged 1.667 hours of annual leave for each hour of annual leave taken. Leave shall be charged only for absences from the basic workweek. (For the definition of basic workweek for these employees, see paragraph 2d of chapter 3, part II).

(4) Full-Time Physicians, Dentists, Podiatrists [, Chiropractors,] and Optometrists

(a) **Minimum Charge.** The charge of annual leave for these employees is 1 calendar day. Charges for leave in excess of 1 day will be in multiples of 1 calendar day. When a scheduled day's work extends over portions of 2 calendar days, leave will be charged for the day on which the greater part of the day's work falls, or for the first day when the day's work is equally divided between 2 calendar days.

(b) **Method of Charge.** The conditions of duty, leave, and administrative nonduty days which prevail during any one week (Sunday through Saturday) will determine the nature of the charge to annual leave which is made for absence during that particular week in applying the [following] provisions [] with the one exception as indicated in subparagraph 3 []. It is immaterial for the application of these provisions whether or not the administrative nonduty days (a) fall on weekends, (b) are consecutive days of the week, or (c) are consistently the same days of each week.

1. When No Duty is Performed. If no duty is performed during the workweek, the employee will not be authorized any administrative nonduty days, and the entire 7 days of the workweek (Sunday through Saturday) will be charged to annual leave. If a holiday or an in-lieu day occurs in the calendar week, that day will not be charged to annual leave.

2. If Duty is Performed on One or More Days. If duty is performed on at least 1 or more days during the workweek, any approved periods of annual leave during that same week will be charged on a day-for-day basis, subject to the conditions of subparagraph 3.

3. Administrative Nonduty Days. All administrative nonduty days which fall wholly within a period of approved annual leave will be charged to annual leave. Holidays or in-lieu days will not be charged to annual leave.

4. Examples of Charge

a. Employee "X" has a scheduled tour of duty Monday through Friday and requests 2 weeks of annual leave. The first duty day missed will be a Monday and the last duty day missed will be a week from the following Friday. Applying subparagraph 1 [], since no duty is being performed in either of the 2-week periods, then all 7 days (Sunday through Saturday) of each week is charged to annual leave. Employee "X", therefore, is charged 14 days annual leave.

b. Employee "Y" is scheduled to have Wednesday and Thursday as administrative nonduty days during a particular week. Employee works on a Sunday and takes annual leave Monday through Saturday of that week. Applying subparagraph 3 [], the entire 6-day period, Monday through Saturday, would be charged to annual leave.

c. Employee "Z" has Sunday and Monday (the first 2 days of the week) scheduled as administrative nonduty days. On Tuesday morning, "Z" calls in by telephone and requests annual leave for the remaining days of the week, Tuesday through Saturday. If this request is granted then no duty would be

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(b) Military leave

(c) Court leave

(d) All authorized absences as set forth in paragraph 9.

(2) The minimum sick leave charge for full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists is 1 calendar day and multiples thereof. **When a scheduled day's work extends over portions of 2 calendar days, sick leave will be charged for the day on which the greater part of the day's work falls, or for the first day when the day's work is equally divided between 2 calendar days.** No charge to sick leave will be made for absence of these employees on administrative nonduty days occurring immediately prior to a period of approved sick leave or following the termination of sick leave. Sick leave will be charged, however, for any administrative nonduty days occurring wholly within a period of approved sick leave. Holidays and in-lieu days granted therefor will not be charged to sick leave.

(3) Except as provided in subparagraph (4) [], the minimum sick leave charge for full-time nurses, nurse anesthetists, PAs, and EFDAs and part-time employees is one quarter hour (15 minutes) and multiples thereof. **Sick leave for these employees will be charged as approved and used.**

(4) Full-time nurses and nurse anesthetists on the Baylor Plan shall be charged 1.667 hours of sick leave for each hour of sick leave taken. Leave shall be charged only for absences from the basic workweek.

(5) Medical and dental residents covered by disbursement agreements shall be granted sick leave in accordance with those agreements.

c. Procedure for Requesting and Approving Sick Leave for All Employees

(1) **Responsibility for Approving Sick Leave.** It is incumbent on every individual responsible for approving applications for sick leave to ascertain that the circumstances of absence justify approval, and that sick leave is available. If for any reason an employee's statement or the medical certificate furnished is not considered satisfactory, the person authorized to approve leave will take necessary steps to obtain additional evidence in support of the employee's request for sick leave.

(2) **Notification of Illness.** An employee who is absent from duty on account of sickness will notify the person authorized to approve leave or other appropriate persons as early as practicable on the first day of such absence or as soon thereafter as possible.

(3) **Submission of Application.** Sick leave not in excess of 3 days (two workdays for full-time nurses and nurse anesthetists on the Baylor Plan), may be approved without a medical certificate. However, in cases that indicate excessive absence on account of illness or where there appears to be an abuse of the sick leave privilege, medical certificates may be required for any period of absence provided the employee has been informed in advance, in writing, that such a requirement has been established for that person. All requests for sick leave must be entered into the ETA system and will

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be entered within 2 days

(c) Attending the funeral of a family member; or

(d) Adoption (appointments with adoption agencies, social workers and attorneys; court proceedings; required travel; or any other activities necessary for the adoption to proceed).

(3) **Limitations on Sick Leave for Family Care.** Leave under paragraphs (2)(a) through (2)(c) are limited as follows:

(a) Full-time employees charged leave on a daily basis may take up to 7 days of sick leave in a leave year; however, if they maintain a balance of 15 days of sick leave, they may take an additional 8 days of sick leave, or up to 15 days of sick leave in a leave year.

(b) Full-time employees charged leave on an hourly basis may take up to 40 hours of sick leave in a leave year; however, employees maintaining a balance of 80 hours of sick leave may take an additional 64 hours of sick leave, or up to 104 hours of sick leave in 1 leave year. Leave taken by employees on the Baylor Plan is to be multiplied by 1.667 when determining these limitations.

(c) Part-time employees may take up to 1 workweek of sick leave and if they maintain a balance of at least 2 workweeks of sick leave, they may take up to the amount of sick leave they would accrue in 1 leave year.

(4) **Relation to Family and Medical Leave Act.** Sick leave under paragraph (2) does not count towards an employee's entitlement under the Family and Medical Leave Act (5 U.S.C. 6381-6387) unless the employee notifies the leave approving official in advance of intent to substitute sick leave for leave without pay taken under the Family and Medical Leave Act.

(5) **Leave Approving Officials.** Leave approving officials may grant or advance sick leave to title 38 employees as described in paragraph (2) []; however, approvals or denials are to be consistent with the limitations in paragraph (3) [] as well as the criteria for approving or advancing sick leave.

(6) **Record Keeping.** Title 38 employees are not covered by the "Federal Employees Family Friendly Leave Act," Pub. L. 103-388. However, to monitor use of this type of leave and to ensure consistency between payroll practices for title 5 and title 38 employees, the record keeping procedures found at 5 CFR 630.408 will be used.

6. ACCRUALS OF ANNUAL AND SICK LEAVE

a. **Accruals for Full-Time Physicians, Dentists, Podiatrists, [Chiropractors,] or Optometrists.** Annual and sick leave shall accrue to full-time physicians, dentists, podiatrists, [chiropractors,] or optometrists during full biweekly pay periods while in a leave with pay status or in a combination of pay and nonpay status. Annual and sick leave will accrue for fractional pay periods as authorized by the Under Secretary for Health (see VHA Supplement, MP-4, part II, tables 1.02 and 1.02.1).

b. Accruals for Full-Time Nurses, Nurse Anesthetists, PAs, EFDAs or Part-Time Employees.

Annual and sick leave shall accrue to full-time nurses, nurse anesthetists, PAs, EFDAs, or part-time

employees during each full biweekly pay period while in a leave with pay status or in a combination of pay and leave without pay status. Such an employee who initially enters on duty on the first workday after the beginning of the pay period shall be deemed to have been appointed at the beginning of the pay period, thereby enabling completion of a full biweekly pay period for leave accrual purposes. For example, an employee who's first workday is after a Monday holiday which occurs the first week of the pay period shall be deemed to have been appointed at the beginning of the pay period for leave accrual purposes.

c. Accruals During Periods of Suspension. Annual and sick leave shall accrue to full- and part-time employees during a period of suspension provided the employee is restored to duty and it is determined that the suspension was not justified.

d. Accrual Rate

(1) Full-time Physicians, Dentists, Podiatrists, [Chiropractors,] and Optometrists

(a) Annual leave shall accrue for full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists at the rate of 30 days per leave year.

(b) Sick leave shall accrue for full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists at the rate of 15 days per leave year.

(2) Full-Time Nurses, Nurse Anesthetists, PAs and EFDAs

(a) Annual leave shall accrue for full-time nurses, nurse anesthetists, PAs and EFDAs at the rate of 8 hours for each full biweekly pay period.

(b) Sick leave shall accrue for full-time nurses, nurse anesthetists, PAs and EFDAs at the rate of 4 hours for each full biweekly pay period.

(3) Part-Time Employees

(a) Annual leave shall accrue for part-time employees at rate of 1 hour for each 10 hours in a pay status.

(b) Sick leave shall accrue for part-time employees at the rate of 1 hour for each 20 hours in a pay status.

(c) Hours in a pay status which do not equal the number necessary for a minimum annual or sick leave credit of 1 hour for part-time employees will be carried forward and combined with subsequent pay status hours.

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e. Reduction of Leave Accruals

(1) Full-Time Physicians, Dentists, Podiatrists, [Chiropractors,] and Optometrists

(a) Annual leave accruals for full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists shall be reduced when the individual has had 12 or more calendar days of absence without pay in a leave year. This reduction shall be at the rate of 1 day for each full 12-calendar-day period.

(b) Sick leave accruals for full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists shall be reduced when the individual has had 24 or more calendar days of absence without pay in a leave year. This reduction shall be at the rate of 1 day for each full 24-calendar-day period.

(2) Full-Time Nurses, Nurse Anesthetists, PAs and EFDAs. A full-time nurse, nurse anesthetist, PA or EFDA who is in a nonpay status for the entire leave year shall not earn leave for the year. Leave accruals shall be reduced for a nonpay status of 80 hours or more in a leave year. This reduction shall be at the rate of 8 hours of annual leave and 4 hours of sick leave for each 80 hours in a nonpay status.

NOTE: *In making this computation each hour a full-time nurse or nurse anesthetist on the Baylor Plan is in a nonpay status shall be considered to be 1.667 hours.* For this purpose, included shall be all hours in a nonpay status (other than nonpay status during a fractional pay period when no leave accrues) while the individual is on the rolls during the leave year in which the leave accrues; excluded shall be a period covered by refund for unearned advance leave. If a reduction in leave credits results in a debit to the annual leave account at the end of the leave year:

(a) The debit may be carried forward as a charge against annual leave to be earned in the next leave year; or

(b) The individual may be required to refund the amount paid to the employee for the period covering the excess leave that resulted in the debit.

(3) Part-Time Employees. Since annual and sick leave for part-time employees will be credited only on pay status hours, no necessity exists for reducing accruals without pay absences.

f. Maximum Leave Accumulation

(1) Annual Leave

(a) **Full-Time Physicians, Dentists, Podiatrists [, Chiropractors,] or Optometrists.** A full-time physician, dentist, podiatrist or optometrist may carry forward not more than 120 days of accumulated annual leave at the end of any leave year.

(b) **Full-Time Nurses, PAs or EFDAs.** A full-time nurse, PA, or EFDA may carry forward not more than 685 hours of accumulated annual leave at the end of any leave year.

(c) **Part-Time Employees.** A part-time employee may carry forward not more than 240 hours of accumulated annual leave at the end of any leave year except that an employee converted to part-time from full-time may carry forward more hours of unused annual leave as indicated [in subparagraphs 1 and 2]. .

1. The maximum carryover will be the lesser of the number of hours converted to part-time or 685 hours. For physicians, dentists, podiatrists, [chiropractors,] and optometrists, 7 calendar days of annual leave will equal 5 workdays of annual leave which will be converted to hours, in accordance with the conversion formula contained in VHA Supplement to MP-4, part II, paragraph ID.05.

2. When accumulated annual leave of more than 240 hours is reduced by usage so that the balance at the end of the leave year is less than the balance at the beginning of the leave year, such difference may not be restored from earnings in the ensuing year. The accumulated leave ceiling of 240 hours may be restored from subsequent earnings. Accrued annual leave not used during the leave year which would cause the maximum ceiling limitation of 240 hours of the balance [] to be exceeded at the beginning of the ensuing leave year will be forfeited.

(d) **Restoration of Annual Leave**

1. Annual leave which is lost at the end of a leave year by operation of an accumulated annual leave limit under this chapter because of (1) administrative error when the error causes a loss of annual leave otherwise accruable; (2) exigencies of the public business when the annual leave was scheduled in advance; (3) sickness of the employee when the annual leave was scheduled in advance; or (4) the employee being in a missing status as defined in 5 U.S.C. 5561(5); shall be restored to the employee.

2. The restoration, maintenance, and disposition of annual leave under subparagraph 1 will be accomplished in the same manner as for VA employees subject to the provisions of 5 U.S.C. chapter 63 under sections 6304(d)(2) and (e), 6302(f), and 5562. (See chapter 2, this part). This includes the same leave restoration approval criteria and requirements and, as applicable, maintenance of leave in separate accounts for the prescribed time limit or payment in lump sum for the value of the leave (including payment for claims by separated employees). This entitlement is provided pursuant to authority of 38 U.S.C. 7421.

(2) **Sick Leave.** There shall be no limitation on the amount of accumulated sick leave which an employee may carry forward at the end of a leave year.

(3) **Advanced Leave**

(a) **Full-Time Physicians, Dentists, Podiatrists, [Chiropractors,] and Optometrists**

1. Annual leave not to exceed 30 calendar days at any time may be advanced to full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists appointed under authority of 38 U.S.C. 7306, 7401(1) or 7405(a)(1)(A), except that such leave for temporary full-time employees appointed under authority of section 7405(a)(1)(A) shall not be advanced in an amount in excess of that amount which could accrue during the remainder of the current appointment.

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2. Sick leave not to exceed 45 calendar days at any time may be advanced to full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists appointed under authority of 38 U.S.C. 7306, 7401(1) or 7405(a)(1)(A). However, sick leave shall not be advanced in an amount in excess of that amount which could accrue during the remainder of the current appointment.

(b) Full-Time Nurses, PAs, and EFDAs

1. Annual leave, not to exceed 208 hours, may be advanced to a full-time nurse, nurse anesthetist, PA, or EFDA at any time.

2. Sick leave, not to exceed 312 hours, may be advanced to a full-time nurse, nurse anesthetist, PA, or EFDA at any time.

(c) Part-Time Physicians, Dentists, Podiatrists, [Chiropractors,] Optometrists, Nurses, Nurse Anesthetists, PAs and EFDAs. Part-time physicians, dentists, podiatrists, [chiropractors,] optometrists, nurses, nurse anesthetists, PAs and EFDAs may be advanced annual and sick leave based on the ratio which their employment bears to full-time employment and the amount of annual and sick leave that may be advanced to a full-time employee covered by subparagraph (3)(a) and (b) []. For example, a half-time employee who is not on a time limited appointment may be advanced up to 104 hours of annual leave and up to 156 hours of sick leave at any time during the leave year.

(d) Leave Advanced During Time-Limited Appointments. Advance sick and annual leave may not exceed the amount an employee can accrue during the remainder of any time limited appointment.

NOTE: *Sick leave may be advanced to full- or part-time employees irrespective of whether or not there is annual leave to the employee's credit.*

7. OTHER LEAVE

a. Military Leave

(1) A full-time employee appointed under authority of 38 U.S.C. 7306, 7401(1), or 7405 (a)(1)(A) not limited to 1 year or less is eligible for and shall be granted military leave in the same manner as other Federal employees. However, those employees on 24/7 schedules will be charged military leave on a daily basis.

(2) A part-time employee appointed under authority of 38 U.S.C. 7405(a)(1)(A) not limited to 1 year or less is entitled to leave without loss in pay, time or performance or proficiency rating for active duty or engaging in field or coast defense training under sections 502-505 of title 32, United States Code, as a member of the Reserve of the armed forces or member of the National Guard. Leave accrues for these employees at the rate of 15 days per fiscal year (to be credited at the beginning of the fiscal year) and, to the extent that it is not used in a fiscal year, accumulated for the use in the succeeding fiscal years until it totals 15 days at the beginning of a fiscal year. Scheduled workdays and intervening days for which no

work is scheduled falling within a period of absence for this duty are not charged to military leave. This entitlement is provided pursuant to authority of 38 U.S.C. 7421.

b. **Court Leave.** Employees appointed under authority of 38 U.S.C. 7306, 7401(1), and 7405(a)(1)(A) are eligible for and shall be granted court leave in the same manner as other eligible Federal employees.

c. **Home Leave.** Employees shall earn and be granted home leave on the same basis as employees subject to the provisions of 5 U.S.C. chapter 63

8. RELIGIOUS, STATE AND LOCAL HOLIDAYS

a. **Religious Holidays.** While there is no official observance of religious holidays, except those which may also be national holidays, it is the policy of VA to permit, when practicable, absence from work for those employees who desire to observe religious holidays. Employees may, under provisions of Public Law 95-390, and applicable regulations, elect to work compensatory overtime for the purpose of taking time off without charge to leave when their personal religious beliefs require that they abstain from work during certain periods of the workday or workweek, thereby avoiding an annual leave or leave without pay charge.

b. **State and Local Holidays.** If a facility is closed on a State or local holiday because it is determined that Federal work may not be properly performed as provided in paragraph 5d of chapter 2, this part, absence on such day is not chargeable to leave for an employee of the facility. Such approved time off is considered authorized absence without charge to leave.

9. AUTHORIZED ABSENCE. An authorized absence is an absence administratively approved, which does not result in a charge to leave of any kind, or in loss of basic salary. The following will be used as the *guide* in determining the types of absences from duty which may be authorized without charge to leave.

a. **Rest and Relaxation.** The Under Secretary for Health and facility directors or the professional person acting for them are authorized to approve absence for not to exceed 24 consecutive hours for rest and relaxation for full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists who have been required to serve long hours in the care and treatment of patients.

b. Tardiness or Absence for Part of a Day

(1) A full-time physician, dentist, podiatrist, [chiropractor,] or optometrist will be charged a full day's leave for absence for a part of a day, unless the absence is excused by officials authorized to approve leave. This authority to approve absence for tardiness and absence for portions of a day will be exercised only when such absence from duty is of short duration and will not be interpreted to cover absences of a major portion of the day wherein annual or sick leave should be properly charged.

Employees who receive military pay and allowances from the Armed Forces will be charged annual leave, or LWOP if annual leave is not available, for the entire period of absence for this purpose.

NOTE: *The discretion to excuse employees for medical examination or treatment, subparagraphs j and k, is limited to brief periods, usually 1 day or less. When an initial examination is not completed in 1 day, whether the employee is in or out of the hospital, the employee may be excused without charge to leave for a somewhat longer period than 1 day; however, the additional time to hospitalize an employee after an initial examination or to require additional and more extensive tests and examinations may not be regarded as excused absence without charge to leave or loss of pay, even though periods of duty may intervene between the initial examination of an employee and the additional test, examinations or hospitalization that may be necessary as a result of the initial examinations.*

k. Medical Treatment. Employees may be excused for visits to the Employee Health Unit or other emergency facility for treatment of a minor illness.

1. Examinations. Absences of physicians, dentists and residents to undergo an American Specialty Board examination, podiatrists [chiropractors,] and optometrists to undergo examination by an approved specialty board, nurses to undergo examination for certification by an appropriate national certifying body, and physician assistants to undergo the official Physician Assistant Certification Examination prepared by the National Board of Medical Examiners and graduate nurse technicians for registration, will be authorized. The amount of absence authorized will not exceed the time actually required for taking the examination and for travel to and from the place of examination. Any additional absence will be charged to annual leave, or LWOP if annual leave is not available.

m. Pending Emergency Suspension. Ordinarily, employees will be retained in a pay and active duty status during an inquiry or investigation into an incident of misconduct or pending a decision on a proposed discharge. In instances where it is determined that an employee's continued presence at work might reasonably pose a threat to the employee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the employee may be placed in a paid non-duty status (i.e., authorized absence for timekeeping purposes) for a brief but reasonable period of time. The facility Director may approve such authorized absence in order to conduct an investigation into the situation and/or to obtain the Under Secretary for Health's decision on a request to effect a suspension (see VA Handbook 5021).

n. Bone-Marrow and Organ Donor Leave. An employee is entitled to 7 days of paid time off in a leave year to serve as a bone-marrow donor, and 30 days of paid time off in a leave year to serve as an organ donor. Employees may take this leave without charge to other types of leave or reduction in pay. This leave is in addition to other types of leave and is creditable as regular duty for all purposes, such as leave accrual, retirement, and proficiency rating.

o. VA Policy. The authorized absence policy, contained in chapter 2 of this part, for title 5 employees is also applicable to employees under this chapter for the following types of absences:

- (1) Absence for Congressional Medal of Honor holders.

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(a) **Substitution of Annual or Sick Leave for LWOP.** An employee who is on LWOP pending adjudication of a claim with OWCP may, if the claim is disallowed while still employed, be retroactively granted sick and annual leave.

(b) **Substitution of LWOP for Annual or Sick Leave.** An employee who has used sick leave or annual leave pending adjudication of an OWCP claim, which is later approved, should be informed by the human resources office about procedures for "buying back" the leave. This can be accomplished by the employee's election to be placed in a nonpay status for the period and by the employee's authorization for the OWCP to reimburse the agency for leave used based on compensation entitlement (with the employee receiving or paying the difference). The substitution should be made promptly and the OWCP will be notified of proposed change in the employee's last day in pay status. For leave record purposes, the request for substitution must be made within 1 year of approval of the OWCP claim, unless it is administratively determined that the employee was prevented from exercising this option because of the disability which gave rise to the claim. In such case, the employee may exercise the option within 1 year of the time it is determined that the employee has sufficiently recovered from the disability to enable the employee to make a reasoned decision. The employee's election should be in writing and is not subject to revocation.

(c) **LWOP in Cases of Extended Absence.** In a case where an employee's condition requires extended absence because of duty-connected illness or injury, the length of LWOP granted will be determined on the basis of the nature of the disability and the LWOP criteria contained in this paragraph. If OWCP accepts an employee's claim, but does not determine that the employee is permanently and totally disabled, LWOP should be granted during this period, except in case of an overriding requirement for separation, such as staff adjustments or removal for cause. LWOP in yearly increments will be granted until it is judged that the employee will not be able to return to duty.

(4) Employees may be granted LWOP for pregnancy and confinement as provided in paragraph 7d.

(5) The minimum charge for LWOP for full-time physicians, dentists, podiatrists, [chiropractors,] and optometrists will be 1 calendar day and will be charged in the same manner as annual leave. The minimum charge for full-time nurses, nurse anesthetists, PAs, EFDAs and part-time employees will be one quarter hour (15 minutes).

b. Conditions Which Will Be Met for Approval of Leave Without Pay. Except for the employees indicated in subparagraph a(2), (3) and (4) [], LWOP will not be approved unless the [following] conditions [] are met.

(1) There is expectation that the employee will return to duty in VA at the expiration of the LWOP period. At the discretion of the facility Director the employee may be required to signify such intentions by submitting a signed statement to that effect to be made a matter of record.

(2) The needs of the service with respect to patient care will not be unduly hampered by the employee's absence.

11. UNAUTHORIZED ABSENCE

a. **General.** Unauthorized absence is any absence from duty which has not been approved. An employee who is absent without approval for any cause will explain to the person authorized to approve leave, at the earliest practicable time, the cause of this absence and the failure to ask for permission to be absent. If it is found that the employee was absent without sufficient cause, or that the failure to obtain permission to be absent is not satisfactorily accounted for, the time lost will be counted as unauthorized absence and pay will be forfeited in the applicable amount.

b. **Charging Unauthorized Absence.** The minimum charge for unauthorized absence for full-time physicians, dentists, residents, podiatrists, [chiropractors,] and optometrists is 1 calendar day. The minimum charge for unauthorized absence for full-time nurses, nurse anesthetists, PAs and EFDAs and part-time employees is 15 minutes and multiples thereof.

12. DISPOSITION OF LEAVE ON TRANSFER, SEPARATION, OR RETIREMENT

a. Lump-Sum Leave Payments

(1) The provisions of 5 U.S.C., chapter 55, subchapter VI, which provide for lump-sum payment of annual leave, are for application to employees appointed under 38 U.S.C., chapter 73 and 74. Lump-sum payments are based upon the amount of annual leave to the credit of an employee on the date of separation. There is no authority to grant annual leave immediately prior to separation when it is known in advance that the employee is to be separated except where exigencies of the service require such action (34 Comp. Gen. 61).

(2) Lump-sum payments for full-time nurses and nurse anesthetists on the Baylor Plan are also based on the amount of annual leave to the credit of a nurse or nurse anesthetist on the date of separation. However, the lump-sum payment to such nurse or nurse anesthetist shall be based on the applicable hourly rate of base pay in effect for a similar employee's service outside the Baylor Plan, i.e., the annual rate of basic pay divided by 2080.

(3) Special pay for physicians and dentists is considered basic pay for the purpose of lump-sum leave payments unless there is a refund liability. See 38 U.S.C. 7438.

b. **Recredit of Leave-Different Leave System.** OPM is authorized by 5 U.S.C. 6308 to regulate the transfer and recredit of leave when different leave systems are involved. (See VHA Sup., MP-4, pt. II, par. 1D.05, for conversion formula.)

c. Disposition of Annual Leave Account

(1) Changes During Employment in VHA

(a) When an employee is serving in an appointment which provides for leave accrual, and is subsequently converted or appointed without a break in service to another type of appointment which

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